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10/665,663	09/18/2003	Peter Worthington Hamilton	9075ML	8571

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EXAMINER
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ZIRKER, DANIEL R

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1771

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PAPER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/665,663  
Filing Date: September 18, 2003  
Appellant(s): HAMILTON ET AL.

**MAILED**  
**JUN 01 2007**  
**GROUP 1700**

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David K. Mattheis  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed January 19, 2007 appealing from the Office action mailed August 23, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. The Examiner, however, has withdrawn the first three grounds of rejection relating to 1) the rejection of all the claims under 35 USC 112, 2<sup>nd</sup> Paragraph, 2) the incorporation of essential material in the specification by reference to a US patent, and 3) the rejection of all the claims under 35 USC 112, 1<sup>st</sup> Paragraph.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 5,968,633                      Hamilton et al                      10-1999

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-5 and 7-19 are rejected under 35 USC 103 (a) as being unpatentable over Hamilton et al. The reference discloses (note particularly the Abstract, Figures 3,4,7, and 8, Col 2, lines 20-49, Col 3, line 41-Col 4, line 6, lines 21-33, Col 5, lines 5-22, lines 45-58, Col 6, lines 12-31, lines 43-54, Col 8, lines 1-13, Col 11, line 56-Col 12, line 19, Col 14, lines 17-26) in certain embodiments what would be considered anticipations of at least appellants' broad independent claims 1, 10 and 15 (the only claims discussed in the Summary section by appellants) except for the fact that a vast number of embodiments are set forth, with no particular focusing on those embodiments which are believed to anticipate appellants' claims. Note particularly that the reference discloses a suitable sheet material having a first active side (Col 3, line 60-Col 4, line 6) and a second side, with a plurality of hollow protrusions extending outwardly therefrom and separated from one another by valleys, with a suitable substance such as an adhesive (which may be in certain embodiments either the claimed first and/or the claimed "secondary functional element") or an adhesive mixed with at least one additional "secondary functional " element such as a lubricant, colorant, preservative or the like (note, e.g. Col 2, lines 20-43) that is disposed upon and/or within (Col 14, lines 17-26) the spaces between the protrusions, which is substantially all that the

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independent claims require. Additionally, note that claims 1 and 10 require a "secondary functional element" disposed within the web, i.e. sheet(s) of material while claim 15 requires at least one secondary functional element disposed upon and integral with the protrusions which are present in the material web. Note also that single or multiple layers within the film structure may be contemplated and that adhesives are most preferred to be utilized in the sheet valleys and/or depressions, preferably mixed with any of the large number of other secondary functional elements such as set forth at Col 6, lines 28-31 and Col 8, lines 1-13 of Hamilton et al. Finally, the reference both teaches and renders obvious the resulting storage wrap articles which can contain porous or microporous sheets that release the aforementioned substances or "secondary functional elements" through their pores "in response to an application of an external force" (claim 1) at a desired moment.

**(10) Response to Argument**

The Examiner has little to add to his position of record, particularly since appellants have presented arguments against the prior art rejections that appear to be little more than a blanket traversal, without getting into any of the specifics of the Examiner's analysis of the prior art reference. It is noted, however, that appellants statement (Brief, page 6) that "the reference does not teach the disposition of the adhesive upon a surface of a web material as a first secondary functional element together with a secondary functional element disposed within the web material" ignores the fact that the reference teaches adhesives, mixed together or in combination with various secondary functional elements, which may form a "substance" that is either

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located on or "held in" i.e. within a particular "substrate" or sheet (note again Col 14, lines 17-32, particularly lines 24-26) which can be a "material web" that is also a porous or microporous material. In summary, the Examiner further wishes to note both that **appellants' claims are very broad** as well as the fact that the commonly assigned reference patent having common coinventors including coinventor Hamilton **contains a very broad disclosure** which, it is respectfully submitted, reads upon many aspects of the claimed invention.

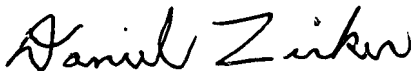
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Daniel Zirker



Conferees:

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